

**STATE OF INDIANA
DEPARTMENT OF STATE REVENUE**

IN REGARDS TO THE MATTER OF:

**OGDEN DUNES VOLUNTEER FIRE DEPARTMENT INC.
DOCKET NO. 29-2002-0179**

PROPOSED ORDER

The letter denying Petitioner's raffle license request was dated on March 18, 2002 and was received by the Petitioner on March 26, 2002. The Petitioner, was represented by Eric D. Kurtz, Fire Chief. Attorney, Steve Carpenter, appeared on behalf of the Indiana Department of State Revenue.

FINDINGS OF FACTS

- 1) Petitioner wished to conduct a raffle on March 9, 2002.
- 2) The Petitioner's charity gaming application Form CG-1 (Indiana Charity Gaming Qualification Application) was received on February 13, 2002.
- 3) Petitioner's charity gaming application Form CG-3 (Indiana Department of Revenue Single Event License Application) was received on February 13, 2002.
- 4) The Indiana Department of Revenue Charity Gaming Section received the necessary information on March 13, 2002 to complete the qualification process.
- 5) Petitioner received a letter of qualification dated March 14, 2002 on March 26, 2002. This was after the date of Petitioner's scheduled event as indicated on Form CG-3.
- 6) Form CG-3 states in bold letters: **"You must file this application at least six (6) weeks before your scheduled event."**
- 7) The letter of denial was dated on March 18, 2002 and was received by the Petitioner on March 26, 2002.
- 8) The Petitioner applied for and was subsequently issued a license and an event was held on March 8, 2003.

STATEMENT OF LAW

- 1) IC 4-32-9-2 provides, "Except as provided in section 3 of this chapter, a qualified organization must obtain a license from the department to conduct an allowable event."
- 2) IC 4-32-9-4 provides, "Each organization applying for a bingo license, special bingo license, charity game night license, raffle license, door prize drawing license, or festival license must submit to the department a written application on a form prescribed by the department..."

- 3) There is no provision in IC 4-32 et.seq., that allows the Department to grant a license retroactively.

CONCLUSIONS OF LAW

- 1) The fact that information needed by the Department in order to qualify the Petitioner as a qualified organization was not received until after the date of the proposed event makes the issue moot.
- 2) Petitioner's appeal of the denial of a single event license is considered "moot" because it no longer presents a justiciable controversy and the issues involved have become academic or dead.
- 3) This appeal raised issues that have already been resolved and are not entitled to judicial intervention.
- 4) This issues involved in Petitioner's original appeal are not recurring ones and cannot be raised again between the parties since the information needed by the Department in order to qualify the Petitioner as a qualified organization was not received until after the date of the proposed event.

PROPOSED ORDER

The Administrative Law Judge orders the following:

Petitioner's appeal is dismissed pursuant to IC 4-21.5.

- 1) Administrative review of this proposed decision may be obtained by filing, with the Commissioner of the Indiana Department of State Revenue, a written document identifying the basis for each objection within fifteen (15) days after service of this proposed decision. IC 4-21.5-3-29(d).
- 2) Judicial review of a final order may be sought under IC 4-21.5-5.

THIS PROPOSED ORDER SHALL BECOME THE FINAL ORDER OF THE INDIANA DEPARTMENT OF STATE REVENUE UNLESS OBJECTIONS ARE FILED WITHIN FIFTEEN (15) DAYS FROM THE DATE THE ORDER IS SERVED ON THE PETITIONER.

Dated: December 18, 2003

Bruce R. Kolb / Administrative Law Judge